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Kathleen M. Ashton

Name

Signature

October 7, 2004

Date of Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Joseph et al.

Serial No.: 10/805,779

Filed: March 22, 2004

For: A Non-Dairy Whippable Food Product

**RESPONSE**

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice to File Missing Parts of Non-Provisional Application mailed August 10, 2004 (copy enclosed), herewith is the executed Declaration and the \$130.00 filing fee.

If any underpayment or overpayment has been made, please charge to Deposit Account No. 08-2442.

Respectfully submitted,

HODGSON RUSS LLP

By

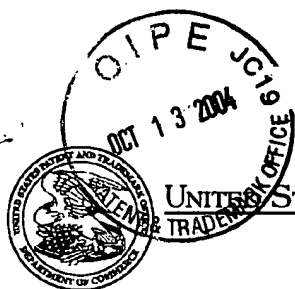
  
Ranjana Kadle, Reg. No. 40,041

One M&T Plaza, Suite 2000  
Buffalo, New York 14203  
(716) 848-1628  
Dated: October 7, 2004

PRO/SE/L (10-03) Approved for use through 07/31/2006, OMB 0651-0032 <b>FEE TRANSMITTAL</b> <b>for FY 2004</b> Effective 10/01/2003. Patent Fees are subject to annual revision. 37. Applicant claims small entity status. See 37 CFR 1.27.		Application Number		10/805,779			
		Filing Date		March 22, 2004			
		First Named Inventor		Joseph et al.			
		Examiner Name					
		Group/Art Unit					
TOTAL AMOUNT OF PAYMENT		(\$ 130.00)		Attorney Docket Number		03278.0236	

METHOD OF PAYMENT (check all that apply)	FEE CALCULATION (continued)						
<input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account:   Deposit Account Number: <u>08-2442</u> Deposit Account Name: <u>Hodgson Russ LLP</u> The Director is hereby authorized to (check all that apply) <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Charge any fee deficiencies or credit any overpayments <input type="checkbox"/> Charge any additional fees during pendency of this application. <input type="checkbox"/> Charge fees indicated below, except for the filing fee to the above-identified deposit account	<b>3. ADDITIONAL FEES</b>						
	<u>Large Entity</u>		<u>Small Entity</u>				
	Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description		
	1051	130	2051	65	Surcharge - late filing fee or oath		
	1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet		
	1053	130	1053	130	Non-English specification		
			1812	2,520	For filing a request for <i>ex parte</i> reexamination		
			1804	920*	Requesting Publication of SIR prior to Examiner Action		
			1805	1,840*	Requesting Publication of SIR after Examiner Action		
			1251	110	2251	55	Extension for reply within first month
		1252	430	2252	215	Extension for reply within second month	
		1253	980	2253	490	Extension for reply within third month	
		1254	1,530	2254	765	Extension for reply within fourth month	
		1255	2,080	2255	1,040	Extension for reply within fifth month	
<b>SUBTOTAL (1)</b>		\$ 0	1401	300	2401	150	Notice of Appeal
<b>2. EXTRA CLAIM FEES FOR UTILITY/ REISSUE</b> <div style="display: flex; justify-content: space-between;"> <div>           Extra Fee from            Claims below            Total Claims   // -20** =   // / x   // / =         </div> <div>           Fee Paid            \$            \$            \$         </div> </div>		1402	340	2402	170	Filing a brief in support of an appeal	
		1403	300	2403	150	Request for oral hearing	
Independent Claims   // - 3** =   // / x   // / =		\$	1451	1,510	1451	1,510	Petition to institute a public use proceeding
Multiple dependent   // / x   // / =		\$	1452	110	2452	55	Petition to revive - unavoidable
<u>Large Entity</u> <u>Small Entity</u> Fee Fee Fee Fee Code (\$ )   Code (\$ )   Fee Description		1453	1,370	2453	685	Petition to revive - unintentional	
		1501	1,370	2501	685	10 advance copies Utility issue fee (or reissue)	
1202   18   2202   9   Claims in excess of 20		1502	490	2502	245	Design issue fee	
1201   88   2201   44   Independent claims in excess of 3		1503	660	2503	330	Plant issue fee	
1203   300   2203   150   Multiple dependent claim if not paid		1460	130	1460	130	Petitions to the Commissioner	
1204   88   2204   44   **Reissue independent claims over original patent		1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1205   18   2205   9   **Reissue claims in excess of 20 and over original patent		1806	180	1806	180	Submission of Information Disclosure Statement	
<b>SUBTOTAL (2)</b>		\$ 0	8021	40	8021	40	Recording each patent assignment per property (times number of properties)
SUBMITTED BY: Ranjana Kadle   Reg. No. 40,041 SIGNATURE		1809	790	2809	395	Filing a submission after final rejection(37 CFR 1.129(a))	
		1810	790	2810	395	For each add'l invention to be examined(37 CFR 1.129(b))	
DATE: October 7, 2004   Telephone: (716) 848-1628		1801	790	2801	395	Request For Continued Examination (RCE)	
		1802	900	1802	900	Request for Expedited Examination of a design application	
		Other fee (specify) _____ \$					
		<b>*Reduced by basic filing fee paid   SUBTOTAL (3)   \$ 130</b>					



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/805,779	03/22/2004	Andrew G. Fendinger	03278.0236

CONFIRMATION NO. 9928

26712  
 HODGSON RUSS LLP  
 ONE M & T PLAZA  
 SUITE 2000  
 BUFFALO, NY 14203-2391

## FORMALITIES LETTER



\*OC000000013493055\*

10/14/2004 HDEHESS1 00000050 10805779

Date Mailed: 08/10/2004

01 FC:1051

130.00 DP

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **\$130** for a Large Entity

- **\$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

*Aikale*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE